THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.8263 OF 2006

Dated: 18th July, 2006.

Between:

Koppisetti Srinivasa Rao … Petitioner

And

1. The Senior Divisional Manager,
   Life Insurance Corporation of India,
   Divisional Office, Rajahmundry,
   East Godavari District. … Respondent

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ORDER :

The writ petitioner was appointed in the year 1992 as an Agent in the Life Insurance Corporation of India, Main Branch, Divisional Office, Rajahmundry for the purpose of soliciting Life Insurance business for the Corporation. Since then, he has been procuring life insurance business for the Corporation. While so, he was served with a notice dated 26-4-2005 issued by the 1st respondent – Senior Divisional Manager informing that a complaint was received against him stating that he had demanded and accepted bribe from the claimants for helping them in settlement of death claims in respect of four (4) claims specified thereunder. Accordingly, the petitioner was called upon to explain as to why action cannot be taken against him in the matter. Having received the same, the petitioner addressed a letter dated 11-5-2005 denying the allegations levelled against him. He also stated that since all the five policies mentioned in the said notice relate to the year 2003, he was unable to submit his explanation in the absence of documents and accordingly requested to supply the dates of proposal as well as disposal of five policies mentioned in the said letter. He has categorically stated that soon after receipt of the above documents he would submit his explanation to the allegations specified in the notice dated 26-4-2005. Though the documents as sought by the petitioner were not furnished, the respondent issued a fresh notice dated 27-9-2005 mentioning the very same allegations and calling upon the petitioner to show-cause in writing as to why appropriate

action should not be taken. He was also granted liberty to present himself for a personal hearing on 8-10-2005 failing which further steps would be taken in the matter without any further reference.

In response to the said notice, the petitioner submitted an explanation dated 14-10-2005 which was received in the office of the respondent on 17-10-2005 bringing to his notice that the documents as sought in his letter dated 26-4-2005 have not been furnished. He also categorically denied all the allegations made in the show-cause notice dated 27-9-2005. That apart, the petitioner also appeared before the respondent on 8-10-2005 and stated that he never demanded or accepted anything from the claimants and that he had worked faithfully for the Corporation. Thereafter, the respondent had passed the impugned order dated 12-4-2006 in exercise of powers under Sections 16 and 19 of L.I.C. of India (Agents) Regulations, 1972 (for short, 'the Regulations') thereby imposing penalty of termination of agency of the writ petitioner. The said order is under challenge in this writ petition.

I have heard the learned Counsel for the petitioner as well as the learned Counsel appearing for the respondent Corporation.

The learned Counsel for the respondent at the outset contended that as against the impugned order of termination an appeal lies under Section 20 of the Regulations and without exhausting the said alternative remedy, the petitioner cannot maintain this writ petition.

However, the learned Counsel for the petitioner contended that since the impugned order is in violation of principles of natural justice, the availability of alternative remedy is not an absolute bar to exercise the judicial review under Article 226 of the Constitution of India.

It is to be noted that the fact that the documents sought by the petitioner in his letter dated 26-4-2005 have not been furnished to him is not disputed in the counter-affidavit of the respondent.

On the other hand, in the notice dated 27-9-2005 which is styled as Show-cause notice issued under Section 16 of L.I.C. of India

(Agents) Regulations, 1972, it is alleged as under :

> *"AND WHEREAS the details of preliminary investigation conducted into the allegations made against you revealed that you have been indulging in the aforesaid acts and thereby violated Rule 16 (1) (a) (b) of Agents Rules, 1972 and Rule 8 of IRDA Regulations, 2000.*
>
> *AND WHEREAS we have vide our letter dated 26-4-2005 called for your explanation and you have not replied specifically to the charges levelled against you.*
>
> *AND WHEREAS you have communicated the said acts, with a fraudulent intention to defraud the Corporation for personal gains and with a view to tarnish the image of the Corporation and thus you have failed to function in the manner envisaged under Rule 16 1 (a) (b) of LIC of India (Agents) Rules, 1972 read with Regulation 8(ii) (g) of IRDA (Licensing of Insurance Agents) Regulations, 2000."*

Though the petitioner submitted an explanation on 14-10-2005 denying all the said allegations and bringing to the notice of the respondent that the copies of the documents as sought by him were not furnished to him, without even referring to the explanation of the petitioner, it was concluded in the impugned order that modus operandi of the petitioner was to extract money from the claimants when they approached him as an agent and that the petitioner had been trying to take advantage of the helplessness of the hapless and unfortunate widows and he had failed to perform his duties, thereby tarnishing the image of the Corporation in the eyes of public.

Under Section 16 of the Regulations though the competent authority is empowered to terminate the appointment of an agent, such action cannot be resorted to without giving the agent a reasonable opportunity to putforth his version about the alleged irregularities. It is true that in the case on hand, a notice was issued mentioning the charges. However, in spite of the specific request made by the petitioner, he was not furnished the copies of the documents which

formed the basis for the charges levelled against him. Even the report of the preliminary investigation said to have been conducted was not furnished to the petitioner. Admittedly, the said preliminary investigation was conducted behind his back. That apart, the show-cause notice dated 27-9-2005, extracted above, itself shows that the respondent has made up his mind and pre-determined the issue that the petitioner had grossly and willfully violated the statutory rules. Such procedure followed by the respondent cannot be said to be in conformity with the principles of natural justice. The law is also well settled that where the documents which go against the interest of the affected party are not furnished to him, the non-supply of such copies would amount to violation of the principles of natural justice. Hence, failure on the part of the petitioner to avail remedy of appeal cannot be said to be a bar to exercise the judicial review under Article 226 of the Constitution of India.

In the circumstances, the impugned order of termination dated 12-4-2006 being in violation of the fundamental principles of natural justice is liable to be set aside on that ground alone. Accordingly, the impugned order of termination dated 12-4-2006 as well as the notice dated 27-9-2005 are hereby set aside and the writ petition is disposed of with a direction to the respondent to furnish the copies of the documents as requested by the petitioner in his letter dated 26-4-2005. On receipt of such documents, the petitioner is granted liberty to submit his explanation within a period of four weeks. Thereafter, it is open to the respondent to take appropriate steps in accordance with law.

Writ Petition is accordingly disposed of. No costs.

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G. ROHINI, J.

Dt. 18-07-2006
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